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EXAMINER

RILEY, MARCUS T

ART UNIT

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/799,758	<b>Applicant(s)</b> FUNAKAWA ET AL.	
	<b>Examiner</b> MARCUS T. RILEY	<b>Art Unit</b> 2625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 June 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>03/15/2004; 10/31/2005; 01/18/2008</u> .                      | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### Response to Amendment

1. This office action is responsive to applicant's remarks received on June 25, 2009. **Claims 1-20** remain pending and newly added **claims 21 & 22** are also pending.

### Response to Arguments

2. Applicant's arguments with respect to amended **claims 1-20** and newly added **claims 21 & 22**, filed on June 25, 2009 have been fully considered but they are not persuasive.

### A: Applicant's Remarks

For Applicant's remarks, see "*Applicant Arguments/Remarks Made in an Amendment*" filed June 25, 2009.

### A: Examiner's Response

Applicant Argues that Ueda nor Kajita, singularly or in combination, disclose or suggest an image processing apparatus wherein, inter alia, the acquired data image is transmitted to the external apparatus "so that the image data is stored in the storage apparatus [of the external apparatus] while the storage unit [of the image processing apparatus also] stores the acquired image data." and the [backup] data stored in the external apparatus is reacquired if the image data stored in the image processing apparatus is not found. Applicant also argues the second data acquiring unit of the present invention is neither disclosed nor suggested in any of the cited references.

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Examiner understands the Applicants Arguments but respectfully disagree. Ueda '764 either alone or in combination with Kajita '706 or Iwazaki '742 teaches, discloses or suggests the Applicants claimed invention. Ueda at Fig. 1 discloses where the image data is transmitted to the external apparatus so that the image data is stored in the storage apparatus of the external apparatus. while the storage unit [of the image processing apparatus also] stores the acquired image data and the [backup] data stored in the external apparatus is reacquired if the image data stored in the image processing apparatus is not found. Fig. 1 shows the Host Computer 1500, i.e. Data is transmitted to/from Host computer 1500 and Printer 2500 via communication line 21 while data is stored in Memories 11 and 20. Either memory 11 or 20 may be used to store data as backup. If the memory is full, The CPU 1 acquires the "memory-full" status of the RAM 13 from the printer 2500 through the printer controller 8 when it is expected that the processing of the printing information to be transferred from the host computer 1500 may fail. The printer 2500 can then directly print the information from either memory. Thus, Ueda '764 either alone or in combination with Kajita '706 or Iwazaki '742 teaches, discloses or suggests the Applicants claimed invention.

As a result, Applicant's application as amended does not further distinguishing all independent claims and the claims dependent therefrom over the art of record. Thus, Applicant's arguments with respect to amended **claims 1, 17 & 18** have been fully considered but they are not persuasive.

Accordingly, Applicant's application is not in condition for allowance.

**Claim Rejections - 35 USC § 101**

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35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

The USPTO “Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility” (Official Gazette notice of 22 November 2005), Annex IV, reads as follows:

Descriptive material can be characterized as either "functional descriptive material" or "nonfunctional descriptive material." In this context, "functional descriptive material" consists of data structures and computer programs which impart functionality when employed as a computer component. (The definition of "data structure" is "a physical or logical relationship among data elements, designed to support specific data manipulation functions." The New IEEE Standard Dictionary of Electrical and Electronics Terms 308 (5th ed. 1993).) "Nonfunctional descriptive material" includes but is not limited to music, literary works and a compilation or mere arrangement of data.

When functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized. Compare *In re Lowry*, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994) (claim to data structure stored on a computer readable medium that increases computer efficiency held statutory) and *Warmerdam*, 33 F.3d at 1360-61, 31 USPQ2d at 1759 (claim to computer having a specific data structure stored in memory held statutory product-by-process claim) with *Warmerdam*, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure per se held nonstatutory).

In contrast, a claimed computer-readable medium encoded with a computer program is a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program's functionality to be realized, and is thus statutory. See *Lowry*, 32 F.3d at 1583-84, 32 USPQ2d at 1035.

**Claim 18** is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter as follows. **Claim 18** defines a “*program that is run in an image processing apparatus*” embodying functional descriptive material. However, the claim does not define a computer-readable medium or memory and is thus non-statutory for that reason (i.e., “When functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized” – Guidelines Annex IV). That is, the scope of the presently claimed “*program*” can range from paper on which the program is written, to a program simply contemplated and memorized by a

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person. The examiner suggests amending the claim to embody the program on “**computer-readable medium**” or equivalent in order to make the claim statutory. Any amendment to the claim should be commensurate with its corresponding disclosure.

**Claim Rejections - 35 USC § 103**

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 1-7, 10-15 & 17-20** are rejected under 35 U.S.C. 103(a) as being unpatentable over Ueda (US 6,538,764 B2, hereinafter Ueda ‘764) in combination with Kajita et al. (US 6,069,706, hereinafter Kajita ‘706).

**Regarding claim 1;** Ueda ‘764 discloses an image processing apparatus (Fig. 1, Printer 2500) for transmitting and receiving data to/from an external apparatus (Fig. 1, Host Computer 1500, i.e. Data is transmitted to/from Host computer 1500 and Printer 2500 via communication line 21) that has a storage apparatus (Fig. 1, External Memory 11), the image processing apparatus comprising:

a first data acquiring unit (Fig. 1, Controller 2000) that acquires image data to be subjected to image processing (i.e. Data processing means for acquiring information concerning image data development. See column 15, lines 36-51);

a storage unit (Fig. 1, External Memory 20) that stores the acquired image data (i.e. First storage means for storing the acquired image data. See column 4, lines 38-52);

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a judgment unit that judges (Fig. 1, CPU 12), prior to commencement of the image processing, whether the image data is stored in the storage unit (i.e. The first judging means judges whether or not the intermediate code information corresponding to one page has been stored in the first storage area. See column 3, lines 51-60 and column 27, lines 41-56);

a second data acquiring unit (Fig. 1, CPU 1) that acquires the image data from the external apparatus if the judgment unit judges negatively (i.e. The CPU 1 acquires the "memory-full" status of the RAM 13 from the printer 2500 through the printer controller 8 when it is expected that the processing of the printing information to be transferred from the host computer 1500 may fail. Column 47, lines 1-18);

and an image processing unit that executes the image processing using the image data stored in the storage unit if the judgment unit judges positively, and executes the image processing using the image data acquired by the second data acquiring unit if the judgment unit judges negatively (i.e. The CPU 1 acquires the "memory-full" status of the RAM 13 from the printer 2500 through the printer controller 8 when it is expected that the processing of the printing information to be transferred from the host computer 1500 may fail. The printer 2500 then directly prints the information. Column 47, lines 1-18);

Ueda '764 does not expressly disclose a transmission unit that transmits the acquired image data to the external apparatus so that the transmitted image data is stored in the storage apparatus thereof while the storage unit stores the acquired image data.

Kajita '706 discloses a transmission unit (Fig. 3, Selector 13) that transmits the acquired image data to the external apparatus (Fig. 3, #'s 2a-c via External Communication CKT 4) so that the transmitted image data is stored in the storage apparatus (Fig. 3, Image Memory 9) thereof while the storage unit stores the acquired image data (i.e. If the copying apparatus 1 is used as a remote scanner, the scanner acquires the image data, transmits the data via selector 13, and the processed image data 16 are stored as a raster image in the image memory

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9. Then the image data, read from the image memory 9, are supplied through the CPU 8 and the external communication circuit 4 and transmitted for example to the computer 2A under the control of the control unit 5.” column 5, lines 1-11).

Ueda ‘764 and Kajita ‘706 are combinable because they are from same field of endeavor of an image processing apparatus (*“The present invention relates to an image reading device... and an image processing method utilizing such device”* Kajita ‘706 at column 1, lines 8-11).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify the image processing apparatus as taught by Ueda ‘764 by adding a transmission unit that transmits the acquired image data to the external apparatus as taught by Kajita ‘706. The motivation for doing so would have been because it advantageous to provide an image reading device with improved operation characteristics so that data would not be lost if there is a power failure. Therefore, it would have been obvious to combine Ueda ‘764 with Kajita ‘706 to obtain the invention as specified in claim 1.

**Regarding claim 2;** Ueda ‘764 as modified does not expressly disclose a deletion instructing unit that, after the image processing is completed, sends to the external apparatus an instruction to delete the image data from the storage apparatus.

Kajita ‘706 discloses a deletion instructing unit (Fig. 10, Step S34) that, after the image processing is completed (Fig. 10, Step S33), sends to the external apparatus an instruction to delete the image data from the storage apparatus (i.e. At step S34 deletes the print request, for which the printing operation has been completed, from the reception list and also deletes the print data on the hard disk 7. See column 11, lines 1-4).

Ueda ‘764 and Kajita ‘706 are combinable because they are from same field of endeavor of an image processing apparatus (*“The present invention relates to an image reading device... and an image processing method utilizing such device”* Kajita ‘706 at column 1, lines 8-11).



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At the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify the image processing apparatus as taught by Ueda '764 by adding a deletion instructing unit as taught by Kajita '706. The motivation for doing so would have been because it advantageous to provide an image reading device with improved operation characteristics that can delete data that is not necessary or and to save memory space. Therefore, it would have been obvious to combine Ueda '764 with Kajita '706 to obtain the invention as specified in claim 1.

**Regarding claim 3;** Ueda '764 discloses where the transmission unit transmits the acquired image data page by page to the external apparatus (i.e. The communication between the host computer 1500 and the printer 2500 may be executed such that, when one-page printing information is to be transferred from the host computer 1500 to the printer 2500. See column 26, lines 12-22).

**Regarding claim 4;** Ueda '764 discloses where the storage unit has a capacity only sufficient to store one page of the image data, and each time the image processing unit completes image processing for one page of the image data stored in the storage unit, the second data acquiring unit acquires from the external apparatus another one page of the image data to be subjected to the image processing next (i.e. the storage unit has first storage means for storing, in a first storage area of a memory resource, the intermediate code information obtained through conversion wherein the first conversion means converts the information received from the information processing apparatus into predetermined intermediate code information, on a page-by-page basis. See column 3, lines 38-44).

**Regarding claim 5;** Ueda '764 discloses a memory that stores information regarding progress of the image processing, wherein when executing the image processing using the image data acquired by the second data acquiring unit, the image processing unit refers to the information stored in the memory and executes the image processing for a part of the image data that has not been subjected to the image processing yet (i.e. The second memory control means operative after

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the preservation of the vacant area by the first memory control means and operative based on the result of the judgment performed by the first judging means, so as to cause the second conversion means to convert into image the intermediate code information of a band which does not contain image data from among the bands of intermediate code information stored in the first storage area, and to develop the image into the second storage area. column 3, lines 63-67 thru column 4, lines 1-4).

**Regarding claim 6;** Ueda '764 discloses where the information stored in the memory indicates pages of the image data that have already been subjected to the image processing (i.e. The first conversion means converts the information received from the information processing apparatus into predetermined intermediate code information, on a page-by-page basis and stores the intermediate code information obtained through conversion in the memory. See column 3, lines 38-44).

**Regarding claim 7;** Kajita '706 discloses where the memory is a nonvolatile memory (i.e. A non-volatile hard disk is used for storing the data obtained by image reading and those for printing. Column 10, lines 50-56).

**Regarding claim 10;** Kajita '706 discloses where the storage unit is a volatile memory (i.e. A volatile DRAM is used for the image memory. Column 10, lines 50-56).

**Regarding claim 11;** Ueda '764 discloses where the judgment unit judges whether the image data is stored in the storage unit each time power is turned on and/or each time the image processing apparatus recovers from a power failure (i.e. When the first judging means judges whether or not the intermediate code information corresponding to one page has been stored in the first storage area, it uses nonvolatile memory. See column 41, lines 6-11);

**Regarding claim 12;** Ueda '764 discloses a reception unit that receives image processing jobs each of which contains information specifying a start time at which an image processing job is to be subjected to the image processing (See Fig. 3 #'s 313 and Fig. 2, #2a. i.e. FIG. 3 illustrates an example of the data structure of the printing information shown in Fig. 2a. This data structure corresponds to the printing transferred from the host computer 1500 to the printer 2500. Numeral 313 designates an image start address designating command which serves as an

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address for designating the address at which the printing of the image data 205 shown in FIG. 2A is to be started. Column 22, lines 23-50); (i.e. A volatile DRAM is used for the image memory. Column 10, lines 50-56).

and a start time judging unit (See Fig. 3 #'s 313 i.e. Numeral 313 designates an image start address designating command which serves as an address for designating the address at which the printing of the image data 205 shown in FIG. 2A is to be started. Column 22, lines 23-50);

that judges, each time power is turned on and/or each time the image processing apparatus recovers from a power failure, whether any of the image processing jobs received by the reception unit has a start time that has already reached (See Fig. 3 #'s 313 i.e. Numeral 313 designates an image start address designating command which serves as an address for designating the address at which the printing of the image data 205 shown in FIG. 2A is to be started. Moreover, a non-volatile hard disk is used which saves data when the power is turned on/off or recovers from a power failure. See column 10, lines 50-56 and column 22, lines 23-50);

wherein if the judgment unit judges negatively, and if there is an image processing job that has been judged by the start time judging unit as having a start time that has already reached, the second data acquiring unit acquires image data for the image processing job from the external apparatus earlier than image data for the remaining image processing jobs received by the reception unit (i.e. The CPU 1 acquires the "memory-full" status of the RAM 13 from the printer 2500 through the printer controller 8 when it is expected that the processing of the printing information to be transferred from the host computer 1500 may fail. Column 47, lines 1-18);

**Regarding claim 13;** Kajita '706 discloses where the image processing is an image forming process (See Fig. 3 wherein if the copying apparatus 1 is subjected to various digital image processes in an image process unit 14 and subjected to image formation in a printer unit 15." column 4, lines 51-58).

**Regarding claim 14;** Kajita '706 discloses where the image processing is a fax transmission process (Fig. 23, Fig. 23 is a flow chart showing the control process in the facsimile apparatus 201).

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**Regarding claim 15;** Ueda '764 discloses where the first data acquiring unit is a receiving unit that receives print data from an external terminal connected with the image processing apparatus via a network (i.e. Controller 2000 receives data from Host computer 1500 connected via communication line 21. Column 15, lines 36-51).

**Regarding claims 17 & 18;** Claims 17 & 18 contains substantially the same subject matter as claim 1. Therefore, claims 17 & 18 are rejected on the same grounds as claim 1. However, Claim 18 discloses where the program is stored in a memory and causes the image processing apparatus to execute the program. Ueda '764 at column 1, lines 24-26 discloses a storage medium for storing a computer-readable program to implement a data processing method.

**Regarding claim 19;** Ueda '764 discloses wherein the first data acquiring unit is an image reading unit which scans documents (See Figure 13, Item #'s 1504, 1505 & 1506 where Numeral 1505 denotes a rotary polygon mirror which deflects the laser light 1504 to the left and right, thereby effecting scanning exposure of the surface of an electrostatic drum 1506).

**Regarding claim 20;** Ueda '764 discloses wherein the storage unit stores image data expanded based on the image data acquired by the first data acquiring unit (i.e. The first judging means judges whether or not the intermediate code information corresponding to one page has been stored in the first storage area; and first memory control means operative based on the result of judgment conducted by the first judging means. See column 3, lines 51-60).

5. **Claims 8, 9, 16 & 22** are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Ueda '764 and Kajita '706 as applied to claim 1 above, and further in view of Iwazaki (US 6,687,742 B1 hereinafter, Iwazaki '742).

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**Regarding claim 8;** Ueda '764 as modified does not expressly disclose where the external apparatus functions as a mail server, the transmission unit transmits to the external apparatus an electronic mail addressed to the image processing apparatus and containing the acquired image data, and the second data acquiring unit, if the judgment unit judges negatively, acquires the electronic mail from the external apparatus and extracts the image data from the acquired electronic mail.

Iwazaki '742 discloses where the external apparatus functions as a mail server (Fig. 1, e-mail server #10);

the transmission unit (Fig. 1, Internet facsimiles 3 & 8) transmits to the external apparatus an electronic mail addressed to the image processing apparatus and containing the acquired image data (See Fig. 1, i.e. Each of the Internet facsimiles 3 & 8 acquires capability information of a transmission destination which is added to an e-mail and then transmits an image in the form of an e-mail. Column 4, line 56 thru column 5, line 4);

and the second data acquiring unit, if the judgment unit judges negatively, acquires the electronic mail from the external apparatus and extracts the image data from the acquired electronic mail (See Fig. 1, i.e. Each of the Internet facsimiles 3 & 8 acquires capability information of a transmission destination which is added to an e-mail and then transmits an image in the form of an e-mail. The Internet facsimiles 3 & 8 judges the conditions of transmitting an image with fixed image conditions or the condition of transmitting an image according to the capability of the transmission destination and processes the extracted image attached to an e-mail. Column 4, line 56 thru column 5, line 4);

Ueda '764 and Iwazaki '742 are combinable because they are from same field of endeavor of an image processing apparatus (Fig. 1, #'s 3 7 6-8, Iwazaki '742)

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At the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify the image processing apparatus as taught by Ueda '764 by adding where the external apparatus functions as a mail server as taught by Iwazaki '742. The motivation for doing so would have been because it advantageous to have a system that makes communication easier by the use of electronic mail. Therefore, it would have been obvious to combine Ueda '764 with Iwazaki '742 to obtain the invention as specified in claim 1.

**Regarding claim 9;** Iwazaki '742 discloses where the transmission unit converts the acquired image data into Tag Image File Format, and transmits to the external apparatus an electronic mail addressed to the image processing apparatus and containing the image data having been converted into Tag Image File Format, as an attached file (i.e. An image is converted to a file of the TIFF (Tagged Image File Format) format, attaches this file to an e-mail message according to the MIME (Multipurpose Internet Mail Extensions), the standard e-mail format, and this e-mail message is then transmitted to a designated e-mail address. column 1, lines 28-36).

**Regarding claim 16;** Iwazaki '742 discloses where the first data acquiring unit is a fax receiving unit (Fig. 1, #3) that receives fax data from an external fax apparatus (Fig. 1, #'s 6-8. i.e. The Internet facsimile 6 is a first-mode Internet facsimile which sends an e-mail one-sided to a receiver. The Internet facsimile 7 is a second-mode Internet facsimile which can detect the capability of a transmission destination and confirm the delivery of an e-mail. Column 4, lines 51-55).

**Regarding claim 22;** Ueda '764 as modified does not expressly disclose wherein the first data acquiring unit has an image reading unit that acquires image data through scanning a document, the transmission unit transmits the acquired image data read by the image reading unit to the external apparatus, and the image processing unit executes a fax transmission process using the image data stored in the storage unit if the judgment unit judges positively, and

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executes the fax transmission process using the image data acquired by the second data acquiring unit if the judgment unit judges negatively.

Kajita '706 discloses wherein the first data acquiring unit has an image reading unit (Fig. 3, Image Memory 9, i.e. image data is read from the image memory 9. Column 5, lines 1-11) that acquires image data through scanning a document (i.e. Image data is read from the image memory 9 that is scanned from scanner unit 12. Column 5, lines 1-11);

the transmission unit transmits the acquired image data read by the image reading unit to the external apparatus (i.e. The image data, read from the image memory 9, is supplied through the CPU 8 and the external communication circuit 4 and transmitted for example to the computer 2A. Column 5, lines 1-11);

Ueda '764 and Kajita '706 are combinable because they are from same field of endeavor of an image processing apparatus (*"The present invention relates to an image reading device... and an image processing method utilizing such device"* Kajita '706 at column 1, lines 8-11).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify the image processing apparatus as taught by Ueda '764 by adding acquiring image data through scanning a document and a transmission unit as taught by Kajita '706. The motivation for doing so would have been because it advantageous to scan and transmits a file efficiently. Therefore, it would have been obvious to combine Ueda '764 with Kajita '706 to obtain the invention as specified in claim 1.

Ueda '764 as modified does not expressly disclose an image processing unit executes a fax transmission process using the image data stored in the storage unit if the judgment unit judges positively, and executes the fax transmission process using the image data acquired by the second data acquiring unit if the judgment unit judges negatively

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Iwazaki '742 and the image processing unit executes a fax transmission process using the image data stored in the storage unit if the judgment unit judges positively, and executes the fax transmission process using the image data acquired by the second data acquiring unit if the judgment unit judges negatively (See Fig. 1, i.e. Each of the Internet facsimiles 3 & 8 acquires capability information of a transmission destination which is added to an e-mail and then transmits an image in the form of an e-mail. The Internet facsimiles 3 & 8 judges the conditions of transmitting an image with fixed image conditions or the condition of transmitting an image according to the capability of the transmission destination and processes the extracted image attached to an e-mail. Column 4, line 56 thru column 5, line 4);

Ueda '764 and Iwazaki '742 are combinable because they are from same field of endeavor of an image processing apparatus (Fig. 1, #s 3 7 6-8, Iwazaki '742).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify the image processing apparatus as taught by Ueda '764 by adding a fax transmission process as taught by Iwazaki '742. The motivation for doing so would have been because it advantageous to have a system that makes communication easier by the use of a facsimile apparatus. Therefore, it would have been obvious to combine Ueda '764 with Iwazaki '742 to obtain the invention as specified in claim 1.

**Regarding claim 21;** Ueda '764 discloses where the image processing unit executes a printing process using the image data stored in the storage unit if the judgment unit judges positively, and executes the printing process using the image data acquired by the second data acquiring unit if the judgment unit judges negatively (i.e. The CPU 1 acquires the "memory-full" status of the RAM 13 from the printer 2500 through the printer controller 8 when it is expected that the processing of the printing information to be transferred from the host computer 1500 may fail. The printer 2500 then directly prints the information. Column 47, lines 1-18)



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Ueda '764 does not expressly disclose wherein the external apparatus is provided as a first-external apparatus the first data acquiring unit has a receiving unit that receives the image data from a second external apparatus the transmission unit transmits the acquired image data received from the second external apparatus to the first external apparatus.

Kajita '706 discloses wherein the external apparatus is provided as a first-external apparatus ( Fig. 2, #2A) the first data acquiring unit ( Fig. 3, #1) has a receiving unit ( Fig. 3, #12, receives image data) that receives the image data from a second external apparatus ( Fig. 2, #2B) the transmission unit (Fig. 3, Selector 13) transmits the acquired image data received from the second external apparatus to the first external apparatus (i.e. If the copying apparatus 1 is used as a remote scanner, the scanner acquires the image data, transmits the data via selector 13. Then, the image data is supplied through the CPU 8 and the external communication circuit 4 and transmitted to computer 2A. Column 5, lines 1-11).

Ueda '764 and Kajita '706 are combinable because they are from same field of endeavor of an image processing apparatus (*"The present invention relates to an image reading device... and an image processing method utilizing such device"* Kajita '706 at column 1, lines 8-11).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify the image processing apparatus as taught by Ueda '764 by adding the external apparatus as taught by Kajita '706. The motivation for doing so would have been because it advantageous to transmit information efficiently. Therefore, it would have been obvious to combine Ueda '764 with Kajita '706 to obtain the invention as specified in claim 1.

of the passage as taught by the prior art or as disclosed by the Examiner.

**Conclusion**

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARCUS T. RILEY whose telephone number is (571)270-1581. The examiner can normally be reached on Monday - Friday, 7:30-5:00, est.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David K. Moore can be reached on 571-272-7437. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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